

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BRIAN KAREM,

Plaintiff,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States and in his individual
capacity; and STEPHANIE GRISHAM, in her
official capacity as White House Press Secretary and
in her individual capacity,

Defendants.

Case No. 1:19-cv-02514-KBJ

NOTICE OF ERRATA FOR REPLY BRIEF

Plaintiff Brian Karem, by and through his undersigned attorneys, respectfully submits
this Notice of Errata to identify the following inadvertent error in the Reply Brief filed at ECF
No. 18:

Reply Brief Page Number	Errata
14	<p>The sentence</p> <p>“Indeed, the public statement Ms. Grisham made after this lawsuit was filed focused on the importance of the agent’s account to her decision. She stated that a suspension was warranted because Mr. Karem’s conduct ‘threatened to escalate . . . into a physical [confrontation] <i>to the point that the Secret Service . . . intervene[d],</i>’ <i>id.</i> at 8 (emphasis added).”</p> <p>should read:</p> <p>“Indeed, the public statement Ms. Grisham made after this lawsuit was filed focused on the importance of the agent’s account to her decision. She stated that a suspension was warranted because Mr. Karem’s conduct ‘threatened to escalate . . . into a physical [confrontation] <i>to the point that the Secret Service . . . intervene[d],</i>’ Ex. P at 2 (emphasis added).”</p>

The attached Corrected Declaration of Theodore J. Boutrous, Jr. in Further Support of Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction, which attaches Exhibit P, should replace the declaration filed at ECF No. 18-1.

Dated: August 26, 2019

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 26, 2019, I filed this Notice of Errata with the United States District Court for the District of Columbia using the CM/ECF system, which will cause it to be served on all counsel of record.

Dated: August 26, 2019

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**IN THE UNITED STATES DISTRICT COURT
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Defendants.

Case No. 1:19-cv-02514-KBJ

**CORRECTED DECLARATION OF THEODORE J. BOUTROUS, JR.
IN FURTHER SUPPORT OF PLAINTIFF'S MOTION FOR A
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

I, THEODORE J. BOUTROUS, JR., hereby declare under penalty of perjury the following:

1. My name is Theodore J. Boutrous, Jr. I am a partner with the law firm of Gibson, Dunn & Crutcher LLP and a member of the bar of this Court. I represent Plaintiff Brian Karem ("Karem") in the above-captioned action. By virtue of my direct involvement in this matter, I have personal knowledge of the content of this declaration, and I could and would competently testify to the truth of the matters stated herein.

2. Attached as **Exhibit A** is a true and correct copy of an article by Charles Taylor, published by *Salon*, entitled "When Playboy was hot," dated October 9, 2002, available at https://www.salon.com/2002/10/09/playboy_2/.

3. Attached as **Exhibit B** is a true and correct copy of an article by Greg Kandra, published by CBS News, entitled “Was That Question A Plante?,” dated August 14, 2007, available at <https://www.cbsnews.com/news/was-that-question-a-plante/>.

4. Attached as **Exhibit C** is a true and correct copy of an article by Steven V. Roberts, published by *The New York Times*, entitled “Washington Talk: The Presidency; Shouting Questions At Reagan,” dated October 21, 1987, available at <https://www.nytimes.com/1987/10/21/us/washington-talk-the-presidency-shouting-questions-at-reagan.html>.

5. Attached as **Exhibit D** is a true and correct copy of an article by Joseph Curl, published by *The Washington Times*, entitled “The White House press corps is broken beyond repair,” dated June 19, 2018, available at <https://www.washingtontimes.com/news/2018/jun/19/white-house-press-corps-broken-beyond-repair/>.

6. Attached as **Exhibit E** is a true and correct copy of an article by Matthew Felling, published by CBS News, entitled “Picking Bush’s Brain,” dated August 14, 2007, available at <https://www.cbsnews.com/news/picking-bushs-brain/>.

7. Attached as **Exhibit F** is a true and correct copy of an article by Elizabeth Williamson, published by *The New York Times*, entitled “Stephanie Grisham’s Turbulent Ascent to a Top White House Role,” dated August 22, 2019, available at <https://www.nytimes.com/2019/08/22/us/politics/stephanie-grisham-press-secretary.html>.

8. Attached as **Exhibit G** is a true and correct copy of an article by Dana Milbank, published by *The Washington Post*, entitled “Let’s ‘gut check’ all of Trump’s vulgar, unpresidential statements,” dated August 23, 2019, available at

https://www.washingtonpost.com/opinions/how-beastly-is-trump-the-post-gut-checker-investigates/2019/08/23/72b70ab2-c5b3-11e9-b5e4-54aa56d5b7ce_story.html.

9. Attached as **Exhibit H** is a true and correct copy of an article by Ronald G. Shafer, published by *The Washington Post*, entitled “The White House reporters who made presidents fume long before Jim Acosta,” dated November 18, 2018, available at <https://www.washingtonpost.com/history/2018/11/18/white-house-reporters-who-made-presidents-fume-long-before-jim-acosta/>.

10. Attached as **Exhibit I** is a true and correct copy of an article by Byron Tau and Donovan Slack, published by *Politico*, entitled “Obama interrupted by heckling reporter,” dated June 15, 2012, available at <https://www.politico.com/blogs/politico44/2012/06/obama-interrupted-by-heckling-reporter-126301>.

11. Attached as **Exhibit J** is a true and correct copy of an article by Dave Boyer, published by *The Washington Times*, entitled “Obama scolds reporter for asking question at press conference,” dated October 18, 2016, available at <https://www.washingtontimes.com/news/2016/oct/18/obama-scolds-reporter-question-press-conference/>.

12. Attached as **Exhibit K** is a true and correct copy of an article by Danielle Wallace, published by Fox News, entitled “Trump’s ‘chopper talk’ news conference blow away White House press corps: report,” dated August 23, 2019 available at <https://www.foxnews.com/politics/trump-chopper-talks-reporters-criticize-accessible-accountable-marine-one-helicopter-press-secretary-grisham>.

13. Attached as **Exhibit L** is a true and correct copy of a letter dated September 20, 2018, from Erica S. Hamrick, Deputy Chief of Hatch Act Unit to Noah Bookbinder, Executive

Director, Citizens for Responsibility and Ethics in Washington regarding Stephanie Grisham, available at

<https://s3.amazonaws.com/storage.citizensforethics.org/wpcontent/uploads/2018/09/21140938/GrishamHatchLetter.pdf>.

14. Attached as **Exhibit M** is a true and correct copy of an article by Kenneth P. Vogel and Jeremy W. Peters, published by *The New York Times*, entitled “Trump Allies Target Journalists Over Coverage Deemed Hostile to White House,” dated August 25, 2019, available at <https://www.nytimes.com/2019/08/25/us/politics/trump-allies-news-media.html>.

15. Attached as **Exhibit N** is a true and correct copy of a Tweet by President Donald J. Trump (@realDonaldTrump), dated August 25, 2019 at 10:30 a.m., available at <https://twitter.com/realdonaldtrump/status/1165677808896507904>.

16. Attached as **Exhibit O** is a true and correct copy of an article by Jose A. DelReal, published by *The Washington Post*, entitled “Trump denies mocking journalist who has disability, demands an apology,” dated November 26, 2015, available at https://www.washingtonpost.com/politics/trump-denies-mocking-journalist-with-disability--and-demands-an-apology/2015/11/26/797e011c-9492-11e5-b5e4-279b4501e8a6_story.html.

17. Attached as **Exhibit P** is a true and correct copy of an article by Paul Farhi, published by *The Washington Post*, entitled “Reporter sues White House over 30-day suspension of press pass following confrontation,” dated August 20, 2019, available at https://www.washingtonpost.com/lifestyle/style/reporter-sues-white-house-over-30-day-suspension-of-press-pass-following-confrontation/2019/08/20/e0d0b768-c384-11e9-b5e4-54aa56d5b7ce_story.html.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 26th day of August 2019.

/s/ Theodore J. Boutrous, Jr.
Theodore J. Boutrous, Jr

Exhibit P

Style

Reporter sues White House over 30-day suspension of press pass following confrontation

By [Paul Farhi](#)

August 20

A reporter for Playboy magazine sued President Trump on Tuesday to regain a press pass he alleged officials suspended in violation of his constitutional rights.

[Brian Karem](#), a CNN contributor who covers the White House for the magazine, said in the suit that the 30-day suspension of his credential is an attempt to silence his coverage and was decided arbitrarily. He named White House press secretary [Stephanie Grisham](#) and President Trump as defendants, and is seeking a temporary restraining order that would lift the suspension of his “hard” pass, which gives reporters largely unfettered access to the White House grounds.

Karem is the second journalist that officials in Trump’s administration have sought to ban and the second to sue over the twin decisions, which are unprecedented in modern White House history.

The White House [suspended the credentials](#) of CNN reporter Jim Acosta last fall after he engaged in a testy exchange with Trump at a news conference. A federal judge [quickly sided with him and CNN](#) after they sued, issuing a restraining order against the White House, which lifted its ban.

Karem’s suit makes much the same legal argument as Acosta’s — that his suspension violates his First Amendment right of free speech and Fifth Amendment right of due process, given that the White House has no rules or procedures in place to warrant such action. Karem is represented by [Ted Boutros](#), the lawyer who represented Acosta and CNN.

Grisham notified Karem this month that she was revoking his pass as a result of a July 11 incident in the Rose Garden.

Following Trump’s remarks at a “[social media summit](#)” with bloggers and online supporters last month, Karem engaged in a brief exchange of words with members of the audience; Karem later said his comments were meant to be lighthearted. [He received an immediate reply](#) from a guest at the event, former Trump White House aide and radio talk-show host [Sebastian Gorka](#).

Karem responded to Gorka by inviting him to have “a long conversation” outside the grounds. Gorka appeared to take this as a challenge and walked over to confront Karem, calling him “a punk.” Karem said he later sought to settle the matter by shaking hands with Gorka, but was rebuffed.

Grisham issued a “preliminary” decision to suspend Karem’s access three weeks after the event, noting that Trump had concurred with the decision. She said in a letter to Karem that his “disruptive behavior” at the July 11 event “violated the basic standards governing such events,” although she acknowledged that there are no explicit rules describing these standards.

She wrote that Karem had “insulted an invited guest of the White House . . . threatened to escalate a verbal altercation into a physical one and . . . re-engaged with Mr. Gorka in what quickly became a confrontational manner while repeatedly disobeying a White House staffer’s instructions to leave.”

Grisham told Karem that the decision to suspend him was final last week.

In a statement, Grisham said, “I stand by my decision to temporarily suspend Mr. Karem’s hard pass for 30 days due to his behavior at a Rose Garden event. The purpose of a hard pass is to provide access to the White House so members of the press can report and ask questions of officials who are taking questions. Mr. Karem did not use the access granted to him for journalistic purposes - in fact, the President had left the event. Instead, he used his press pass to insult invited guests and make comments that threatened to escalate into a physical confrontation to the point that the Secret Service intervened.”

Boutrous, in a statement, said, “We are confident that the administration’s latest punitive and lawless action against a journalist will not stand, and we look forward to our day in court.”

The [White House Correspondents’ Association](#) has weighed in on Karem’s behalf, saying in a statement last week that it is “deeply concerned” about the suspension. “Such a move could have a chilling effect on working journalists,” it said. “As we have said before, we believe everyone should conduct themselves professionally at the White House.”

Paul Farhi

Paul Farhi is The Washington Post's media reporter. He started at The Post in 1988 and has been a financial reporter, a

<https://www.washingtonpost.com/mostlystyle/reporter-sues-white-house-over-30-day-suspension-of-press-pass-following-confrontation/2019/08/26/>

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